

## § 1951.469

the borrower's account prior to loan closing. Authorized selling expenses will not be considered or included in the amount assumed. Release from liability is not authorized.

### § 1951.469 Actions after liquidation of property.

(a) [Reserved]

(b) *Servicing unsatisfied account balances.* A current financial statement will be obtained, if possible, when application of sale proceeds does not satisfy an NP loan; or if a conveyance to FmHA or its successor agency under Public Law 103-354 has been accepted and credit of the market value less prior liens and estimated inventory handling expenses does not satisfy the debt, FmHA or its successor agency under Public Law 103-354 will pursue collection if there appears to be income or assets from which to collect. Where the borrower owns other real estate, or if the borrower is known to be in the process of purchasing other real estate (such as another dwelling), a judgment for the remaining debt including expenses paid by FmHA or its successor agency under Public Law 103-354 will be sought.

(c) [Reserved]

### §§ 1951.470–1951.478 [Reserved]

### § 1951.479 Pilot projects.

From time to time FmHA or its successor agency under Public Law 103-354 conducts pilot projects to test concepts related to the management and/or sale of SFH inventory property which may deviate from the provisions of this subpart, but will not be inconsistent with provisions of the authorizing statutes, or other Acts affecting FmHA or its successor agency under Public Law 103-354's loan programs. Prior to initiation of a pilot project, FmHA or its successor agency under Public Law 103-354 will publish in the FEDERAL REGISTER a Notice outlining the nature, scope, and duration of the pilot. The pilot projects may be handled by FmHA or its successor agency under Public Law 103-354 employees and/or under contract with persons, firms, or other entities in the private sector.

## 7 CFR Ch. XVIII (1–1–07 Edition)

### § 1951.480 [Reserved]

### § 1951.481 FmHA or its successor agency under Public Law 103-354 Instructions.

Detailed FmHA or its successor agency under Public Law 103-354 Instructions for administering this subpart are available in any FmHA or its successor agency under Public Law 103-354 office (FmHA or its successor agency under Public Law 103-354 Instruction 1951-J).

### §§ 1951.482–1951.500 [Reserved]

## Subpart K [Reserved]

## Subpart L—Servicing Cases Where Unauthorized Loan or Other Financial Assistance was Received—Farmer Programs

SOURCE: 50 FR 45777, Nov. 1, 1985, unless otherwise noted.

### § 1951.551 Purpose.

This subpart prescribes the policies and procedures for servicing insured Operating (OL), Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Emergency (EM), Economic Emergency (EE), Special Livestock (SL), Softwood Timber (ST), Economic Opportunity (EO) loans, and Rural Housing loans for farm service buildings (RHF) (referred to as farmer program (FP) loans), when it is determined that the borrower was not eligible for all or part of the financial assistance received in the form of a loan or subsidy granted. It does not apply to guaranteed loans.

[52 FR 26138, July 13, 1987]

### § 1951.552 Definitions.

As used in this subpart, the following definitions apply:

(a) *Active borrower.* A borrower who has an outstanding account in the records of the Finance Office, including collection-only or an unsatisfied account balance where a voluntary conveyance was accepted without borrower being released from liability or where liquidation did not satisfy the indebtedness.

(b) *Assistance*. Financial assistance in the form of a loan or interest subsidy received.

(c) *Debt instrument*. Used as a collective term to include promissory note or assumption agreement.

(d) *False information*. Information, known to be incorrect, provided with the intent to obtain benefits which would not have been obtainable based on correction information.

(e) *Inaccurate information*. Incorrect information provided inadvertently without intent to obtain benefits fraudulently.

(f) *Inactive borrower*. A former active borrower whose loan(s) has(have) been paid in full or assumed by another party(ies), and who does not have an outstanding account in the records of the Finance Office.

(g) *Unauthorized Assistance*. Any loan, primary loan servicing action, including Net Recovery Buyout, or interest subsidy received for which there was no authorization, for which the borrower was not eligible, or which was obligated from the wrong appropriation or fund. An unauthorized interest subsidy is a benefit received through a loan that was made at a lower interest rate than that to which the borrower was entitled, whether the incorrect interest rate was selected erroneously by the approval official, or the documents were prepared in error.

[50 FR 45777, Nov. 1, 1985, as amended at 56 FR 33862, July 24, 1991]

#### § 1951.553 Policy.

When it is determined that unauthorized assistance has been received, an effort must be made to collect from the borrower the sum which is determined to be unauthorized, regardless of amount, unless any applicable Statute of Limitations has expired.

#### §§ 1951.554–1951.555 [Reserved]

#### § 1951.556 Initial determination that unauthorized assistance was received.

Unauthorized assistance may be identified through audits conducted by the Office of the Inspector General (OIG), USDA; through reviews made by Farmers Home Administration or its successor agency under Public Law 103–354

(FmHA or its successor agency under Public Law 103–354) personnel; or through other means such as information provided by a private citizen which documents that unauthorized assistance has been received by a borrower. If FmHA or its successor agency under Public Law 103–354 has reason to believe unauthorized assistance was received, but is unable to determine whether or not the assistance was in fact unauthorized, the case will be referred to the Office of the General Counsel (OGC) or the National Office, as appropriate, for review and advice. In every case where it is known or believed by FmHA or its successor agency under Public Law 103–354 that the assistance was based on false information, investigation by the OIG will be requested, as provided for in FmHA or its successor agency under Public Law 103–354 Instruction 2012–B (available in any FmHA or its successor agency under Public Law 103–354 office). If OIG conducts an investigation, the actions outlined in § 1951.557 of this subpart will be deferred until the OIG investigation is completed and the report is received. The reason(s) for the unauthorized assistance being received by the borrower will be well documented in the case file, and will specifically state whether it was due to:

(a) Submission of inaccurate information by the borrower;

(b) Submission of false information by the borrower;

(c) Submission of inaccurate or false information by another party on the borrower's behalf such as a seller, developer, real estate broker, or attorney, when the borrower did not know the other party had submitted inaccurate or false information;

(d) Error by FmHA or its successor agency under Public Law 103–354 personnel, either in making computations or failure to follow published regulations or other agency issuances; or

(e) Error in preparation of a debt instrument which caused a loan to be closed at an interest rate lower than the correct rate in effect when the loan was approved.

#### § 1951.557 Notification to borrower.

(a) Collection efforts will be initiated by the County Supervisor by a letter